Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

NO. 77-1431

IN THE
SUPREME COURT
OF THE UNITED STATES
OCTOBER TERM, 1977

JAMES BOYET FRINK,

Petitioner.

v.

CATHERINE E. FRINK,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF NEW JERSEY

James Boyet Frink, Pro Se
2011 Ferry Avenue, Apartment P4
Camden, New Jersey 08104

30 March 1978

State of New Jersey)
)ss.
County of Camden)

To Whom It May Concern:

I, James Boyet Frink, Pro Se, Petitioner, of full age, residing at 2011 Ferry Avenue, Apartment P-4, Camden, New Jersey 08104, hereby solemnly swear; that:

1. I appealed, to the Governor of the State of New Jersey on 6 December 1977 in the captioned cause. I received a negative answer from the Honorable the Governor of the State of New Jersey on or about the 22 of December 1977.

2. I began to finalize the petition herein on 12 February 1978. Subsequently, on 12 February 1978, I was injured from a fall on the icy parking area. Subsequently, to the aforesaid accident the petitioner was home under the doctor's care from 12 February until 23 February 1978, see Appendix "I", herein.

3. I delivered forty (40) copies of Petitioner's Petition to the docketing area of the Supreme Court of the United States on 1 April 1978. However, Mr. S. J. Lorson refused to accept and docket my case because the aforesaid petition was printed on 8½ x 11 paper.

James Boyet Frink
James Boyet Frink
Plaintiff-Petitioner (Pro Se)

Witnesses:
Subscribed and sworn to before me
at Camden, New Jersey on this ~~31st~~ 5TH
day of ~~March~~ APRIL 1978

Geraldine Lombardo
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 3/14/82

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I

The petitioner, James Boyet Frink, pray that a Wit of Certiorari is issued to review the orders of the Supreme Court of New Jersey entered in these proceedings on 12 September 1977 and 22 November 1977.

The petitioner, James Boyet Frink, appealed to The Honorable The Governor of The State of New Jersey; and The Governor refused to intervene in this cause on 19 December 1977.

OPINIONS BELOW

The judgment of the Superior Court of New Jersey, Chancery Division, Camden County, entered on 26 November 1975 an order confirming the support order and the allowance of counsel fees entered on 17 August 1976 appear as Appendix "A" and Appendix "B" respectively, herein.

The opinion of the Superior Court of New Jersey, Appellate Division, affirming judgment for the respondents, rendered on 31 May 1977, appears as Appendix "C", herein.

The order of the Supreme Court of New Jersey

denying Petition For Certification entered on 12 September 1977 and denying Petition For Rehearing entered on 22 November 1977 appear as Appendix "D" and Appendix "E" respectively, herein.

The comments of The Honorable The Governor of The State of New Jersey in refusing, on 19 December 1977, to intervene in this cause appear as Appendix "F", herein.

JURISDICTION

The captioned matter jurisdiction for this court is based upon U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 1983, and 1985.

The order of the Supreme Court of New Jersey denying Petition for Rehearing of its order was entered 22 November 1977; Appendix "E".

The Honorable The Governor of The state of New Jersey refused on 19 December 1977 to intervene in this cause; Appendix "F".

The jurisdiction of this court is invoked under 28 U.S.C.A. 1257 (3).

THE QUESTIONS PRESENTED

1. Does the partial final judgment of the state court reach the gravity of Racial and Sex Discrimination, in that it deprives unnecessarily the petitioner of adequate food, funds to buy clothing, funds for vacation, funds for adequate medical and optical care, funds for recreation, adequate funds for gasoline, funds to cover debts, funds for necessary insurances, funds for taxes; and in addition, petitioners health has deteriorated rapidly due to this final judgment and petitioner is at the mercy of co-workers, friends, and relatives for survival; and respondents suggested that petitioner declare bankruptcy or may be get a room in lieu of an apartment in order to pay the Support Order and his creditors; petitioner has been deprived of life, liberty and property, and the equal protection of the laws also, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 1983?

2. Where the state court ordered petitioners to submit certain documents to the respondents; and

court did not reciprocate when petitioner reminded the court that his Subpoena Duces Tecum, The State of New Jersey, requested certain documents and/or records from the respondents, does this act constitute "invidious" discrimination which is in violation of petitioner's constitutional rights guaranteed under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

3. Does discrimination exist where the petitioners was required to answer interrogatories and the respondent was not required to do the same; and attorney for respondent asked for continuances and his request was granted, but petitioner asked for a continuance and his request was denied, this is in violation of petitioner constitutional rights under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

4. Does it constitute discrimination when the state court subtracted in excess of $1500.00 from the respondents salary and added $456.00 to the petitioner's salary to obtain a combined base

figure in order to arrive at the proportionate share (ratios are erroneous) of money for each to pay for support of the two children of the marriage, also this deprived the petitioner of the equal protection of the laws under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

5. Why did respondents deliberately and contumalious withhold requested matter, not priviledged, which is pertinent and relevant to this cause; and deprived petitioner of materials necessary to afford reasonable access to the courts, this violates the due process and equal protection clauses of U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

6. Could the petitioner receive a fair trial in as much as the judge was prejudice against the petitioner which would deprive him of due process, because an essential element of due process is a right to be heard by an impartial judge, U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

7. Where the court was aware that the petitioner is

virtually penniless, and the respondent has substantial savings and the court increased the support order plus added other potential expenses and allowed counsel fees, does this constitute cruel and inhumane treatment of petitioner which is violation of the equal protection clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

8. Where petitioner had a net take home pay of $13,182.00 per year and he was compared to a doctor and respondent had income in excess of $17,000.00 per year for 1975 and she was compared to a destitute by the State Court in order to help support its position, does this constitute state laws being applied in a matter which subject petitioner to discrimination so as to deprive him of his equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

9. Where the petitioner was not allowed to present an updated list of his monthly obligations/expenses and his present indebtedness to the court in the chamber hearing of 9 August 1976, does this

deprive the petitioner of his constitutional right under the due process clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

10. Where the court placed supplemental education and/or other expenses against the petitioner when petitioner had no prior knowledge that the funds were being spent or would be lodged against him, does this deprive the petitioner of his constitutional right under the due process clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

11. Where the court did not issue a decision on the issue of support and maintenance for the Respondent-Counterclaimant, and this issue is being held in abeyance and can be activated by the respondent at anytime, even 20 years from this date, why are the petitioner's constitutional rights being violated under U.S.C.A. Amend 14, 42 U.S.C.A. 1983 because he is not free from arbitrary restraint?

12. Where the court refused to act on petitioner's Statement of Evidence and Proceedings, refused

petitioner's request for a Stay of Partial Final Judgment; and granted respondent an abeyance or time before carrying out a court order, is the law being applied in a matter which subject petitioner to discrimination so as to deprive him of his equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

13. The petitioners was compelled to carry up-to-date information in the court on 24 March 1975 and 14 November 1975. In fact the information petitioner carried in court in March 1975 was not acceptable to the court in November 1975. Yet the respondent brought 1974 or earlier information to the court on 14 November 1975, is this another time that the law was being applied in a matter which subject petitioner to discrimination so as to deprive him of his equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983?

14. Whether the records for the aforesaid partial final judgment against petitioner was so totally

devoid of factual evidentiary support as to render the orders unconstitutional under the due process clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983?

15. Whether the respondents conspired for the purpose of impeding, hendering obstructing, or defeating the cause of justice with the intent to deny petitioner the equal protection of the laws by giving false evidence, suppressing the truth, refusing information under discovery, submitting fraudulent affidavit, making inflammatory statements about the petitioner, etc. U.S.C.A. Amend 14, 42 U.S.C.A. 1985?

16. Whether the state court violated the petitioner's constitutional rights under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983, in its failure to disqualify the trial judge who lacked qualifications to sit at contested matrimonial actions and its failure to render a decision on petitioner's Application For Supplemental Relief For Alleged Violation of an order of the court?

17. Did the Supreme Court of New Jersey and the

Superior Court of New Jersey, Appellate Division, collectively and individual, depart from the usual and accepted course of judicial proceedings in holding valid and enforcing the judgment of the trial court in the above cause?

18. Where the State Court set a new standard of living of $4160.00 per year plus additional cost for Blue Cross and Blue Shield, potential cost for physicians and hospitals, and 50% beneficiary for all life insurances for the petitioner's daughter, Joy B. Frink, who is yet in high school, and petitioner had a net take home pay of $13,182.00 per year, if there was no divorce or separation petitioner would be short (deficit) a minimum of $3600.00 per year trying to support his former wife and two children, does this deprive petitioner of life, liberty, and property in trying to pay the aforesaid final judgment U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983, 42 U.S.C.A. 1985?

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following section of the U.S. Constitution,

U.S.C.A. Amend 14 is relevant to this petition:

U.S.C.A. Amend 14 (1) provides:

> "All persons born or maturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The following section of the Civil Rights Act, 42 U.S.C.A. 1981 is relevant to this petition:

42 U.S.C.A. 1981 provides:

> "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

The following section of the Civil Right Act, 42 U.S.C.A. 1983 is relevant to this petition:

42 U.S.C.A. 1983 provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

The following section of the Civil Rights Act, 42 U.S.C.A. 1985 is relevant to this petition:

42 U.S.C.A. 1985 provides:

1. "If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

2. If two or more persons in any State or Territory conspire to deter, by

force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impending, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

3. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the

equal protection of the laws, or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators."

STATEMENT OF THE CASE

This action was commenced in 1974 in The Superior Court of New Jersey, Chancery Division, Camden County, Camden, New Jersey 08101. Edward Kent, Esquire of Kent & Grayer, a professional corporation, 8 Rockland Drive, Willingboro, N.J. 08046 filed a divorce suit for the petitioner, in

early 1974, on the ground of 18 months separation without reasonable prospect of reconcilliation. Sometime later, James T. Rosenberg, Esquire a member of the firm of Kent & Grayer became the coordinator of the divorce suit for the petitioner. Two court hearings were held one on 24 March 1975 and the second and final one on 14 November 1975. In the hearing of 24 March 1975, petitioner was subjected to direct and extensive cross examination. However, the contested support issue was heard de novo on 14 November 1975 at the request of Saul Teitelman, Esquire, Attorney for respondent. Afterwhich, the Trial Court issued seven (7) orders. Petitioner was without funds to retain or obtain an attorney. Therefore, on 24 November 1975, petitioner filed, PRO SE, notice of motion for a Stay Of Partial Final Judgment and for a New Trial on order number 5 (Petitioner shall pay the respondent the sum of two hundred and twenty eight ($228.00) dollars every two weeks) and order number 6 (Petitioner shall pay the sum of six

hundred ($600.00) dollars counsel fees to Saul Teitelman, Esquire, attorney for respondent) on the following grounds:

1. Because the verdicts are against the weight of the evidence.
2. Because the additional evidence is available.
3. Because the aforesaid orders are excessive and will create further hardship on the petitioner.
4. Because some of the respondent's testimony did not appear to be credible nor admissible.
5. Because there is no recollection that it was shown or proved in the hearing that the respondent doesn't have sufficient funds to pay her own counsel fees and expenses.
6. Because of some of the contentions addressed to the court and/or the record by the respondent's attorney.

On 12 December 1975, a hearing was held in the Trial Court on the petitioner's Motion For A Stay Of Partial Final Judgment and for a New Trial. A

Stay was denied. However, a New Trial was granted. The second and final hearing in this cause was held in the judge's chambers on Monday the 9th of August 1976. At this hearing, the Trial Court saw no need to change the original Support Order and the Allowance of Counsel Fees. Therefore, petitioner informed the Trial Court that he would appeal its decision.

Trial of this action was to the Honorable Mary Ellen Talbott, Judge of Camden County, T/A to Superior Court of New Jersey, during March 1975 and November 1975. On 26 November 1975, the Superior Court of New Jersey entered a final judgment which appears as Appendix "A". In the matter of a Stay and/on a New Trial during December 1975 and August 1976. On 17 August, the Superior Court of New Jersey entered an order confirming the Support Order and allowance of counsel fees which appears as Appendix "B".

Appeal to the Appellate Division of the Superior Court of New Jersey from partial final judgment

(issues of support and allowance of counsel fees) was taken on 22 September 1976. On 31 May 1977, without argument to the panel of the Appellate Division consisting of the Honorable Joseph Halpern, Samuel Allcorn, Jr., and Theodore I. Botter, Superior Court of New Jersey Judges, entered a decision affirming the partial final judgment of the Trial Court which appears as Appendix "C", herein.

On 16 June 1977, petitioner petitioned the Supreme Court of New Jersey for certification to the Appellate Division of the Superior Court of New Jersey to review the final judgment of the said Appellate Division, entered on 31 May 1977. On 12 September 1977, petition for certification was denied without argument, by the Supreme Court of New Jersey which appears as Appendix "D", herein. On 29 September 1977, petitioner petitioned the Supreme Court of New Jersey for a rehearing on the Petition For Certification. On 22 November 1977, petition for a rehearing on the

Petition For Certification was denied without argument, which appears as Appendix "E", herein.

On 6 December 1977, petitioner appealed to the Honorable Brendan T. Byrne, Governor of The State of New Jersey. On 19 December 1977, the Honorable Governor of The State of New Jersey refused to intervene in this cause and his comments appear as Appendix "F", herein. The petitioner took this course of action with the hope it would be fruitful because of the following newspaper article of 11 November 1977: 'Teachers' Jail Terms Commuted, Byrne Frees 106 Matawan In Unprecedented Legal Action." It is to be noted that this cause was in the Chancery Division of the Superior Court of New Jersey also. The governor's order for commutation of Sentence appears as Appendix "G", herein.

Fact material to the consideration of The Questions Presented was presented to the court as follows:

I. In Superior Court of New Jersey, Chancery Division, Camden County:

A. The Questions Presented, Number 1.

1. Petitioner stated, by the way of testimony in the hearing of 24 March 1975, that he has a particular medical problem. It is high blood, N.T.19-3 (24 March 1975). This condition has worsen since the captioned cause which deprives petitioner of constitutional right to protect his health U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

2. Petitioner stated, by the way of testimony in the chamber hearing of 9 August 1976:

a. that "his concerns are to be able to pay some of his creditors, buy food and other necessities." Respondent: "petitioner should sell his property, cut down on expenses, get a room in lieu of an apartment, or declare bankruptcy in order to pay the support order and his creditors." Page 105a. Captioned cause deprives petitioner of life, liberty, and property, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

b. Informed the court that the principal burden

of financial support for minor children is no longer casted upon the father. In fact, the state of New Jersey and the Commonwealth of Pennsylvania both have statues which states that the support of children is equal responsibility of both mother and father, except as circumstances cast on one or the other the greater burden. Page 105a. The captioned cause discriminated against petitioner here, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 105a of Appendix To Appellant's Brief To Appellate Division.

3. Petitioner presented, by way of Affidavit For Support Motion For A Stay and a New Trial of 5 January 1976, facts to stantiate that he had a average monthly deficit in excess of $300.00, see page 36a of Appendix To Appellant's Brief To The Appellate Division. The aforesaid orders deprives the petitioner of equal and full benefits of the laws in that he cannot buy the necessities of life U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

B. The Questions Presented, Number 2.

1. Attorney for respondent, in the chamber hearing of 9 August 1976, reminded the court that he requested certain documents from the petitioner; and he needed one of them now.

The Court: Give the document to him. Page 108a.

2. Petitioner in the chamber hearing of 9 August 1976, reminded the court that he requested certain documents and/or records from the respondent. Page 105a. This discrimination which is in violation of petitioner's constitutional rights guaranteed under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 105a and 108a of Appendix to Appellant's Brief To The Appellate Division.

C. The Questions Presented, Number 4.

1. Petitioner questioned, in hearing; and Affidavit In Support Of His Motion, the judge two or three times as to how she arrived at 5/8, 3/8 ratio as proportionate share of money each spouse has to pay for support of children of the marriage. The judge

used a base figure of $40,000.00 and rounded off petitioner's gross salary from $24544.00 to $25,000.00 and the respondent had a gross yearly income, at that time, in excess of $17,000.00. Therefore, to arrive at 5/8, 3/8 ratios the judge had to subtract in excess of $1500.00 from the respondent's income. This is unconstitutional discrimination. Hold to the doctrine that "support of children is equal responsibility of both mother and father, both must be required to discharge obligations in accordance with their capacity and ability" then the scale would be 2/5, 3/5 ratios in lieu of 3/8, 5/8, ratios. Therefore, petitioner has been subjected to discrimination and unequal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981 and 1983, see pages 38a and 106a of Appendix To Appellant's Brief To Appellate Division and N.T.4-15 (12 December 1975).

D. The Questions Presented, Number 6.

1. Petitioner stated, in his affidavit of 5 May 1976 for Supplemental Relief, that he recollect

that the respondent's attorney complained to your Honorable Court because the support payments were still one hundred eighty ($180.00) dollars every two weeks in lieu of two hundred twenty eight ($228.00) dollars as specified in the Court Order. Petitioner understood your Honorable Court to say that the order for two hundred twenty eight ($228.00) dollars every two weeks had not been altered. At that time, the petitioner had a Motion pending. To deny the petitioner a Stay while his Motion is pending, then grant the respondent a Stay without a valid Motion or Request, would be in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. A Motion For Relief from judgment or order does not suspend the operation of any judgment, order, or proceeding. If a judgment or order is suspended for the respondent and the same denied for the petitioner, it would seem to be in violation of the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the

United States. Court granted respondent an abeyance in carrying out a court order. This act constitutes discrimination and the lack of due process of laws which deprived the petitioner of a fair trial. U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 88a of Appendix To Appellant's Brief To The Appellate Division. E. The Questions Presented, Number 7.

1. Petitioner stated, in his affidavit of 5 January 1976 for a Stay and a New Trial, that he has an average monthly deficit in excess of two hundred ($200.00) dollars. However, if the aforesaid orders stand the petitioner will have an average monthly deficit in excess of three hundred ($300.00) dollars. This constitutes cruel and inhumane treatment of petitioner which is violative of the equal protection clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983. See page 36a of Appendix To Appellant's Brief To The Appellate Division; and see N.T.32-20 (14 November 1975); N.T.42-25, N.T.43-11, N.T.45-12, N.T.45-14, and N.T.48-8

(24 March 1975).

F. The Questions Presented, Number 9.

1. Petitioner was not allowed to present an up-dated list of his monthly expenses/obligations and his indebtedness to the court in the chamber hearing of 9 August 1976. The court would not accept these expenses from the petitioner. However, the court did allow the respondents to list expenses. This act deprives the petitioner of his right to equal protection and due process of laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1983, see page 105a of Appendix To Appellant's Brief To Appellate Division.

G. The Questions Presented, Number 10.

1. The court placed supplemental education and/or other expenses against the petitioner when petitioner had no prior knowledge that these funds were being spent or would be lodged against him, petitioner objected to this action. However, the court overruled the objection and added the expenses as part of the accountability of the

petitioner. This act deprives petitioner of due process of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1983, see page 104a of Appendix To Appellant's Brief To Appellate Division.

H. The Questions Presented, Number 13.

1. Petitioner was compelled by the way of testimony to give the court current information. In fact, information petitioner used in the hearing of 24 March 1975 was not acceptable for the final hearing of 14 November 1975. Yet respondent gave the court her payroll deductions from a wage statement of 1974. This is another act of the law being applied in a matter which subjected petitioner to discrimination so as to deprive him of equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. Petitioner stated the above inequity in his affidavit for a Stay and a New Trial of 5 January 1976, page 39a of Appendix To Appellant's Brief and N.T.70-7 (14 November 1975).

I. The Questions Presented, Number 14.

1. Petitioner stated, in an affidavit in support

his motion for a Stay and a New Trial on partial final judgment of 5 January 1976, that the records are devoid of factual evidentiary support as to render the order for Support of such magnitude and allowance of counsel fees in that respondent lied, gave antiquated information to court; and her right to counsel fees was not established. This act constitutes unconstitutional discrimination to deprive the petitioner of his constitutional rights under U.S.C.A. Amend 14, 42 U.S.C.A. 1983, 42 U.S.C.A. 1985, see pages 34a thru 43a of Appendix To Appellant's Brief and N.T.34-25 thru 38-13, N.T.70-7 (14 November 1975).

J. The Questions Presented, Number 15.

1. Petitioner stated, in "Affidavit In Support Of His Motion For A Stay Of Partial Final Judgment and for a New Trial of 5 January 1976, that his constitutional rights had been violated since the court judgment was based on the exaggerated testimony of the respondent. This deprives petitioner of life, liberty, and property, U.S.C.A.

Amend 14, 42 U.S.C.A. 1983, 42 U.S.C.A. 1985. See pages 34a thru 43a of Appendix To Appellant's Brief To The Appellate Division; and N.T.34-25 thru N.T.38-13, N.T.70-7 (14 November 1975).

2. Additionally, attorney for respondent informed the court of the following:

a. Informed the court that he talked with the children (Joy B. Frink and Gayle B. Frink) in his office and they didn't remember the petitioner buying them any of the clothing, etc. which petitioner stated in the interrogatories. Page 108a.

b. Informed the court that it is the petitioner's principal duty to support the children; and he doesn't want to support them. Page 108a.

c. Under questioning by Mr. Teitelman, attorney for the respondent Joy B. Frink and Gayle B. Frink didn't remember that the petitioner sent them birthday cards, communicated with them, nor took them out for refreshment/enjoyment. Page 109a.

d. Reminded the court that the petitioner lost his case for a divorce in Pennsylvania; and probably

took advantage of New Jersey statues on separation in order to obtain a divorce. Page 109a.

See pages 108a and 109a of Appendix To Appellant's Brief To Appellate Division. These are other acts of inflammatory statements, giving false evidence, suppressing the truth as a mean of conspiring for the purpose of impeding, hendering, obstructing, or defeating the cause of justice with the intent to deny petitioner the equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1985, 42 U.S.C.A. 1983.

II. In Superior Court of New Jersey, Appellate Division:

A. The Questions Presented, Number 1.

1. Petitioner stated in his brief of 6 December 1976 to the Appellate Division that the Court Below issue an order against the petitioner for fees for the counsel for the respondent and for support of such magnitude for two children? When it was stated/suggested in the Court Below that the petitioner should declare bankruptcy, sell his

property, or live in a room in order to survive and pay the aforesaid order and the bona fide personal expenses. Page 2. Deprives petitioner of full and equal benefit of all laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

See page 2 of Brief For The Appellant To Appellate Division.

2. Petitioner stated in his Reply Brief of 18 January 1977 to Appellate Division:

a. That the 3/8, 5/8 ratios in favor of the respondent and against the petitioner as the proportionate share of money each must pay for the support of the children (Joy B. Frink and Gayle B. Frink) of the marriage is not fair. Yet the expenses incurred by Gayle to go to Purdue University last year were approximately $4000.00; and the petitioner's yearly share of the support money is $3328.00 for Gayle. Page 7.

Discrimination against petitioner, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

b. The Court Below was informed in August 1976 that

Gayle is working. Page 7.

c, The Court Below ordered that the petitioner continue to cover the children (Gayle B. Frink and Joy B. Frink) of the marriage with Blue Cross and Blue Shield or its equivalent. Petitioner may receive bills from Blue Cross/Blue Shield for the following reasons.

(1) Any difference between the plan's payment and the physicians charge.

(2) Any difference between the plan's payment and the hospital charge.

(3) In the event, there is a disallowance. Page 7.

Denies petitioner equal protection of laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

See page 7 of Reply Brief For The Appellant To Appellate Division.

B. The Questions Presented, Number 2.

1. Petitioner stated in the Brief For The Appellant of 6 December 1976 to the Appellate Division that the Court Below erred in honoring the respondent's Notice To Produce Records and not honoring the

petitioner's Subpoena Duces Tecum.

In the Court Below, the attorney for the respondent submitted to the petitioner, on 26 July 1976, a Notice To Produce Records and this document doesn't have contempt sanction for non-compliance.

Whereas, the Subpoena Duces Tecum does have contempt sanction. However, petitioner was ordered by the Court Below to honor the Notice To Produce Records on 9 August 1976. Yet the request under petitioner Subpoena Duces Tecum of 14 July 1976 was ignored on 9 August 1976, date of the final hearing in this matter. This is discrimination which is violation of petitioner's constitutional rights guaranteed under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See pages 9 and 10 of Appellant's Brief To The Appellate Division.

C. The Questions Presented, Number 4.

1. Petitioner stated in the Brief For The Appellant of 6 December 1976 to the Appellate Division that the Court Below erred in arriving at the proportionate share of money for the petitioner to

pay for the support of Joy B. Frink and Gayle B. Frink (children of the marriage). In the Court Below, the petitioner reminded the court that the ratios are incorrect. Petitioner was subjected to discrimination and deprived of equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 14 of Appellant's Brief To The Appellate Division.

D. The Questions Presented, Number 6.

1. Petitioner stated in his Reply of 18 January 1977 to Appellate Division that the judge who sat below should not have had jurisdiction over the caption case:

a. To the best of the petitioner recollection, the judge stated on 1 October 1974 that the case should not be brought before that bench.

b. If the case is remanded the judge who sat below should not have jurisdiction over the case:

(1) The judge gave an opinion upon the matter in question.

(2) Petitioner doesn't believe that he can receive

a fair and unbiased hearing or judgment. Page 14. The judge was prejudice against the petitioner which deprives him of due process, an essential element of due process is a right to be heard by an impartial judge, U.S.C.A. Amend 14, 42 U.S.C.A. 1983. In addition, inexperience can put a cloud over the element of due process also. See page 14 of Reply Brief For The Appellant To The Appellate Division.

E. The Questions Presented, Number 7.

1. Petitioner stated in his Reply Brief of 18 January 1977 to the Appellate Division:

a. That the respondent has a substantial savings account and checking account. For example she had Interest Income in excess of $500.00 for the year of 1974, D2a-11. According to the petitioner's figures this means savings in excess of $10,000.00. Yet the petitioner cannot meet his creditors. Page 6. Deprives petitioner of his constitutional rights, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

b. The amount of money allocated per week per child is too high for her accustomed style of living and petitioner's take home pay; and further the ratio is too high for petitioner since the respondent had an income in excess of $17,000.00 in 1975. Page 9. Deprives petitioner of life, liberty, and property U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

c. The Court Below knew that the petitioner had a monthly deficit prior to the order for support for both children being increased by a total of $104.00 per month or $26.00 per week, N.T.32-20 (14 November 1975); N.T.42-25, N.T.43-11, N.T.45-12, and N.T.48-8 (24 March 1975). Basically, this deficit came about because of the need to purchase furniture, bedding, items for the children, N.T.45-14 (24 March 1975); etc. plus a confiscatory order for support for children and wife after separation. Page 6.

This act deprives petitioner of life, liberty, and property, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42

U.S.C.A. 1983.

d. The Court Below knew the petitioner's financial situation prior to increasing the aforesaid Support Order. N.T.42-25, N.T.43-11, N.T.45-12, and N.T.48-8 (24 March 1975); and N.T.32-20 (14 November 1975). The respondent had a gross income in excess of $17,000.00 for the year of 1975. Respondent had a gross salary in 1972 of $12,000.00 N.T.41-24 (14 November 1975). This gives her an increase in salary in excess of $5000.00 from 1972 to 1975. Respondent's union negatiated, in 1976, for raises for its member. I understand that these raises will begin in 1977 at 6 percent; and its member get an annual increase if they have not reached maximum salary. Page 4. This constitutes cruel and inhumane treatment of petitioner which is violative of the equal protection clause of U.S.C.A. Amend 14, 42 U.S.C.A. 1983. See pages 4, 6, and 9 of Reply Brief For The Appellant To Appellate Division.

2. Petitioner stated in the Brief For The Appellant

of 6 December to Appellate Division 1976 the following:

a. Under the existing circumstances should the petitioner have been ordered to pay any portion of the fees for counsel for the respondent? Page 1.

b. Under the existing circumstances should the petitioner have been ordered to pay in excess of one hundred ninety ($190.00) dollars every two (2) weeks for the support of two (2) children, one 16 years old and one 19 years old? Pages 1 and 16. Deprives petitioner of full and equal benefit of all laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

See page 1 and 16 of Appellant's Brief To The Appellate Division.

F. The Questions Presented, Number 9.

1. Petitioner stated in Reply Brief of 18 January 1977 to Appellate Division. The Court Below refused to accept an updated list of the petitioner's monthly obligations/expenses and indebtedness at

the 9 August 1976 chamber hearing. However, the Court Below did review or record information from and return to the petitioner the following:

a. Employee's (James Boyet Frink) statement of earnings, deductions, and leave for July 1976.

b. Gas shut-off Notice from Philadelphia Gas Works.

c. A Notice Of Process For Disconnection from Philadelphia Electric Company.

G. The Questions Presented, Number 10.

1. Petitioner stated in Brief For The Appellant of 6 December 1976 to the Appellate Division the attorney for the respondent submitted to the court on 9 August 1976, and the court accepted over the petitioner's objections the expenses for Gayle B. Frink to attend Temple University during the summer of 1976. The petitioner had no prior knowledge that funds were being spent for Gayle to attend summer school at Temple University in 1976 nor did the petitioner have prior knowledge that these expenses would be lodge against him as part of his accountability.

This deprives petitioner of due process U.S.C.A. Amend 14, 42 U.S.C.A. 1983. See page 9 of Appellant's Brief To The Appellate Division.

H. The Questions Presented, Number 12.

1. Petitioner stated in Brief For The Appellant of 6 December 1976 to Appellate Division the Court Below erred in not acting on the Appellant's Statement Of Evidence And Proceedings for the hearing held in the judge's chambers on 9 August 1976.

In the Court Below, petitioner recalled asking for information, etc. in order to prepare the Appellant's Statement Of Evidence And Proceedings. But to no avail. This deprives petitioner of equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 14 of Appellant's Brief To The Appellate Division.

I. The Questions Presented, Number 13.

1. Petitioner stated in his Reply Brief of 18 January 1977 to the Appellate Division the respondent gave testimony from a wage statement for

year of 1974, T46-3 and T70-7 (14 November 1975), gave her salary at that time as $15,000.00 per year, T34-23 (14 November 1975), and gave other testimony which had the ring of perjury. This subjected petitioner to discrimination so as to deprive him of equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983. See page 2 of Reply Brief For The Appellant To The Appellate Division.

J. The Questions Presented, Number 14.

1. Petitioner stated in his Brief For The Appellant of 6 December 1976 to the Appellate Division, pages 10 and 15:

a. In the Court Below, it was not shown and/or proved in any hearing that the respondent does not have sufficient funds to pay her own counsel fees and expenses in the matter under Docket Number M-7496-73. Petitioner informed the Court Below that he set up a saving account for Gayle B. Frink's education and somehow the account got listed as "Catherine M. Frink (respondent) in Trust for Gayle

B. Frink" which meant the petitioner could not withdraw from the account. Petitioner submit that the respondent has more than ample funds to pay her own attorney. Page 10.

b. The Court Below erred in not considering the fact that plaintiff's take home pay had increased bi-weekly by only $28.00 since the Support Order was modified in Pennsylvania 1971. Yet the court increased the Order of Support by $52.00 Bi-Weekly. Page 15. This deprives petitioner of due process, U.S.C.A. Amend 14, 42 U.S.C.A. 1983.

K. The Questions Presented, Number 16.

1. Petitioner stated in Brief For Appellant of 6 December 1976 to the Appellate Division, page 13, the Court Below erred in not citing the respondent for contempt. In the Court Below, the petitioner made application for Supplemental Releif for Alleged Violations of an order of the court 5 May 1976. However, the respondent still didn't sign the paper (deed) in question until about 9 August 1976. In addition, the respondent didn't comply

with petitioner's Subpoena Duces Tecum of 14 July 1976. This act violates the petitioner constitutional rights under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

L. The Questions Presented, Number 18.

1. Petitioner stated in Reply Brief of 18 January 1977 to the Appellate Division, pages 8 and 9. These calculations will help to prove further that the Court Below erred grossly in this matter; support for Joy B. Frink a high school student:

(1) $8/5 \times 50 = \frac{400}{5} = \$80.00$/week x 52 weeks/year=$4160.00/ year.

(2) If no separation, family would consist of four (4) persons. Then you would have to assume that everyone is a small eater and conservative as Joy. However, they are not; then yearly cost to support the family would be 4x4160=$16,640.00. Page 8.

(3) Yet petitioner's net annual salary was: $507.00 x 26 Pays/year=$13,182.00 year. Under this condition the petitioner would have a minimum deficit of $16,640.00-$13,182.00=$3458.00 per year.

Page 9.

Deprives petitioner of his constitutional rights under U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

M. The Questions Presented, Number 3.

1. Petitioner stated in Brief For Appellant of 6 December 1976 to the Appellate Division, page 3 why wasn't the respondent required to answer interrogatories? This constitutes discrimination, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

N. The Questions Presented, Number 5.

1. Petitioner stated in Appendix "H", herein and Brief that respondents withheld requested matter not priviledged, which is pertinent and relevant to this cause. This deprives petitioner of due process and equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1983.

III. In Supreme (Highest) Court in the State of New Jersey:

A. The Questions Presented, Number 1.

1. Petitioner stated in Petition For Certification of 24 June 1977, pages 18 and 19:

a. Petitioner complains about many other errors but they are listed in Statement Of Matter Involved, Questions Presented, Reply Brief, and Initial Brief because he could not elaborate on them in this document due to the limit of 20 pages.

b. Petitioner is under medication (T19-4, 24 Mar. 1975). Petitioner has another illness which will require surgery, but lack funds to attend a physician prior to the operation.

c. Twelve installments payments were due these creditors in 1976, but petitioner was able to make five to Bank Americard and Korvettes; eight to General Tires; and six to General Electric.

d. Petitioner is in desperate need of clothing. Petitioner is struggling to keep food on his table and gas in his automobile. Petitioner wage tax, etc. have begun to go unpaid due to the lack of funds. Petitioner has curtailed household and liability insurance.

e. Petitioner has had to borrow in excess of $2200.00 from relative and friends without any means of repaying it since the Courts Below have set a higher standard of living than respondent was accustomed to. Petitioner has been discriminated against and deprived of equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983.

B. The Questions Presented, Number 15 & 8.

1. Petitioner stated in Petition For Certification of 24 June 1977, pages 13, 14, 15, 16, 17, and 18, there was not sufficient credible nor admissible evidence in the record available to the petitioner, to warrant the findings and conclusions of the trial judge increasing the original order of support for two children; and in allowing a counsel fee of $600.00 in favor of the defendant-respondent. The Appellate Division has alleged as its first reason for affirming the order of support and allowance of counsel fees; that there was sufficient credible evidence therein to warrant the findings and

conclusion of the trial judge (a) in increasing the original order of support for two children, and (b) in allowing a counsel fee of $600.00 to respondent payable by appellant, R.2:11-3(e)(1)(A). First, the defendant-respondent lied and/or cheated in the following:

a. In Philadelphia Court-In support proceeding and the divorce proceeding.

b. In the Superior Court of New Jersey-In the support proceeding (T34-23 thru T37, 14 Nov. 1975) as follows:

(1) She didn't dispute that she deliberately denied the children clothing, medical, etc.

(2) About her salary with Philadelphia School Board

(3) About her monthly food bill

(4) About her monthly clothing bill

(5) About children bi-weekly visit to the beauty shop

(6) About yearly expenses for Purdue University for the oldest child

(7) About monthly medical expenses

(8) About monthly utilities cost

(9) About monthly authorized telephone service

(10) About Scout dues for the youngest child

(11) About monthly cleaners expenses

(12) About monthly automobile expenses

(13) About monthly church and chairty expenses

(14) About monthly house repairs

(15) About monthly water and sewer bill

(16) Gave the court 1974 information in lieu of current as petitioner was compelled to do.

(17) About others

2. Perjurious testimony of this magnitude constitutes fraud. "Fraud upon court" within meaning of rule governing vacation of judgment occurs where unsuccessful party has been prevented by fraud or deception from presenting all of his case to court or where unconscionable plan or scheme was used to improperly influence court in its decision." Rules of Civil Procedure, rule 60(b). "Fraud" is a generic term and in equity embraces all acts, omissions and concealments involving breaches

of equitable or legal duty in trust which are injurious to others or by which undue advantage is taken of another; it is not necessarily a single fact but a conclusion which is drawn from all the circumstances of the case and includes constructive as well as actual fraud."

3. Respondent is not distitute nor was it proved in court that she could not defray the cost to prosecute the action, nor is she in needs.

4. Respondent had savings in her name in excess of $10,000.00 (D2a-11). Petitioner had about $10.00 in savings and checking; and did not have the financial ability to pay the counsel fees.

5. Secondly, the caption action is not on equal par with Khalaf v. Khalaf, 58 N.J. 63 (1971):

a. Dr. and Mrs. Khalaf were married 26 years prior to separation. Whereas, petitioner and respondent were married 13 1/3 years prior to separation.

b. Dr. Khalaf abandoned his wife. Whereas, petitioner did not abandoned nor desert the respondent.

c. Mrs. Khalaf was unemployed and had limited employment experience. Whereas, respondent is an appointed school teacher in Philadelphia, Pa. with tenure. Respondent has been working most of the years since she finished college about 1953. Respondent has a yearly income in excess of $17,000.00. Respondent receives annual increases until she reach maximum salary. Respondent has savings in her name in excess of $10,000.00, (D2a-11). Petitioner submit that respondent has a higher checking account and money banked in others name also. Petitioner was informed that all teachers in Philadelphia received a 6 percent raise commencing in February 1977.

d. If Dr. and Mrs. Khalaf had not separated, college tuition would have been paid by Dr. Khalaf because of his means, unlimited income. Whereas, had there been no separation of respondent and petitioner, college tuition would have been a must joint venture because of petitioner's means.

e. Dr. Khalaf estimated net income, take home pay,

was $29,500.00 per year. Whereas, petitioner net take home pay was $13,182.00 per year.

(1) Dr. Khalaf pays $3200.00 per year for college. Whereas petitioner pays $3328.00 per year for college.

(2) Further Dr. Khalaf had savings. Whereas petitioner had no funds but a huge deficit. Petitioner doesn't have the ability to pay a support order of this magnitude, nor counsel fees for the respondent. "Law which is administered unequally so as to make unjust and illegal discriminations between persons in similar circumstances is violative of this amendment XIV of the U.S. Const. notwithstanding that law is fair and impartial on its face." "An actual discrimination arising from the method of administering a law is as potential in creating a denial of equality of rights as discrimination made by law."

7. Finally, the caption action is not on equal par with Williams v. Williams, 59 N.J. 229 (1971)

or R.4:42-9(a)(1):

a. Factors used in determining whether wife is entitled to counsel fees and costs in a matrimonial action include wife's needs, husband's financial ability to pay, and wife's good faith in instituting or defending action. R.4:42-8, 4:42-9(a)(1).

b. The record was clear that Mrs. Williams was without independent means to prosecute the action; that Mr. Williams had the financial ability to pay; that the action was instituted in good faith.

c. In addition, Mrs. Williams died destitute. Respondent had savings in her name in excess of $10,000.00 (D2A-11) and possible savings in others name also; respondent had a checking account; respondent had an income in excess of $17,000.00 for the year of 1975 with a 6 percent raised approved in 1976; respondent had no outstanding debts at time of the proceedings.

d. Mr. Williams had the financial ability and means to pay. Respondent does not have the means or financial ability to pay counsel fees.

e. The Court Below nor the records did not present factors establishing respondent's right to counsel fees.

f. Pursuant to R.4:42-9(a)(1), the court in its discretion may make an allowance of counsel fees, if deemed to be just:

(1) The Courts Below are aware that petitioner is virtually penniless; and that respondent has a substantial savings, in excess of $10,000.00 (D2A-11), (N.T.42-25, N.T.43-11, N.T.45-12, and N.T.48-8, 24 March 1975), N.T.32-20 (14 Nov. 1975), plus a checking account. Therefore, to order petitioner to pay counsel fee for respondent is not just. "Discretion" in trial court is not a private, arbitrary or personal discretion but must be exercised according to established principles of law." "A court's "discretion" means legal discretion in the exercise of which trial judge must take account of law applicable to particular circumstances of case and be governed accordingly and implicit therein is conscientious judgment

directed by law and reason and looking to a just result." These constitute state laws being applied in a matter which subject petitioner to discrimination so as to deprive him of equal protection of the laws; and conspiration to defeat the due cause of justice, denying petitioner the equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1981, 42 U.S.C.A. 1983, 42 U.S.C.A. 1985.

C. The Questions Presented, Number 11.

1. Petitioner asked in Petition For Certification of 24 June 1977, page 7, why wasn't the decision on support and maintenance for the defendant-counterclaimant stipulated in the final judgment? This issue is being held in abeyance and can be activated by the respondent at anytime, even 20 years from this date. Petitioner's constitutional rights are being violated because he is not free from arbitrary restraint, U.S.C.A. Amend 14, 42 U.S.C.A. 1983.

D. The Questions Presented, Number 17.

1. Petitioner noticed that the decision in this cause is contrary to other or similar decisions of the Superior Court of New Jersey, Appellate Division and Supreme Court of New Jersey.

E. The Questions Presented, Number 15.

1. Petitioner stated in Reply Petition For Certification of 22 July 1977, page 7:

a. Petitioner finds it incredible that the respondent, with an income in 1975 in excess of $17,000.00, with savings in her name in excess of $10,000.00 in 1974, with a checking account, and receiving $390.00/Mo. as support from the petitioner had retained an attorney for in excess of 21 months without submitting any compensation or court costs (PA2ar-14), see Appendix "J", herein.

b. Petitioner never saw the aforesaid affidavit prior to 16 July 1977. However, this document was sent to the Superior Court of New Jersey, Appellate Division, to be used on appeal. This document has the smell of fraud, respondents conspired to defeat the due cause of justice, denying petitioner of

equal protection of the laws, U.S.C.A. Amend 14, 42 U.S.C.A. 1985.

F. Petitioner does not recall raising any new issues in his Petition For Rehearing on the Petition For Certification.

IV. On appeal to The Honorable The Governor of the State of New Jersey

1. Petitioner does not recall raising any new issues in his brief.

REASONS FOR GRANTING THE WRIT

1. Judgment of the state court unnecessarily deprives petitioner of the basic necessities of life, liberty, and property, such as but not limited to adequate food, adequate medical care, funds to buy clothing, funds for vacation, funds for recreation, adequate funds for creditors, etc.. Prior to this judgment, petitioner could control his high blood pressure with 50 MGM per day now it takes 300 MGM per day to control it.

2. Petitioner believe that this judgment reach the gravity of Racial, Sex, and Invidious Discrimination

against the petitioner, which violates full and equal benefits of all laws.

3. Petitioner was deprived of materials necessary to afford reasonable access to the state courts, which violates due process and equal protection of laws.

4. Petitioner did not receive a fair trial in the state court, which violates due process of laws.

5. Petitioner has been subjected to cruel and inhumane treatment, which violates equal protection of the laws.

6. Petitioner was subjected to the lack of due process and equal protection of the laws.

7. Petitioner is not free from arbitrary restraint.

8. The records are devoid of factual evidentiary support as to render the final state judgment of such form and magnitude, which violates due process of the law.

9. Petitioner believe there was a conspiracy to defeat the due cause of justice and to deny him equal protection of the laws.

10. Petitioner is experiencing the type of financial restraint which could jeopardize his employment also.

Law may be summarized:

Thompson v. City of Louisville, et al 362 U.S. 199 (1960):

Goss v. State of Illinois, 204 F. Supp. 268 (1962):

Neal v. Brim, 506 F.2d 6 (1975):

Hoffman v. Holden, 268 F.2d 280 (1959)

Talbert v. Eyman, 434 F.2d 625 (1970)

Haley v. Troy, 338 F. Supp. 794 (1972)

Wardius v. Oregon, 412 U.S. 470 (1973)

Gregory v. Chicago, 394 U.S. 111 (1969)

Sigafus v. Brown, 416 F.2d 105 (1969)

CONCLUSIONS

On the basis of the foregoing it is respectfully requested that this court issue a Writ of Certiorari in this case.

Respectfully submitted,

James Boyet Frink
2011 Ferry Avenue, Apt. P4
Camden, New Jersey
Pro Se, Petitioner

Date: 31 March 1978

APPENDIX A

SUPERIOR COURT OF NEW JERSEY,
CHANCERY DIVISION, CAMDEN COUNTY

JAMES BOYET FRINK, : Docket No. M-7496-73

PLAINTIFF.:

v. : FINAL JUDGMENT

CATHERINE E. FRINK, :

DEFENDENT.:

THIS MATTER coming on to be heard in the presence of JAMES T. ROSENBERG, ESQUIRE, a member of the firm of KENT & GRAYER, A Professional Corporation, attorneys for the plaintiff and Saul Teitelman, Esquire, attorney for the defendant, and the court having heard and considered the complaint and proofs and it appearing that plaintiff and defendant were married and plaintiff having pleaded and proved a cause of action for divorce under the statute in such case made and provided and the plaintiff has been a bona fide resident of this state for more than one year next preceeding the commencement of the action and jurisdiction having

been acquired over the defendant pursuant to the rules governing the courts.

IT IS, on this 26th day of November, 1975 ORDERED and ADJUDGED that, pursuant to the statute in such case, made and provided, the marriage between the parties is dissolved.

It is FURTHER ORDERED that the custody of the two minor children of said marriage be and the same is hereby awarded to the defendant, CATHERINE E. FRINK, with plaintiff, JAMES BOYET FRINK, having reasonable rights of visitation.

It is FURTHER ORDERED that the real property owned by the parties known as 1718 Stenton Avenue, Philadelphia, Pennsylvania, shall be transferred to the defendant, CATHERINE E. FRINK, by deed from the plaintiff, JAMES BOYET FRINK, and the property owned by the parties known as 2313 North Broad Street, Philadelphia, Pennsylvania, shall be transferred to the plaintiff, JAMES BOYET FRINK, by deed from the defendant, CATHERINE E. FRINK.

It is FURTHER ORDERED that the plaintiff will continue to cover the two minor children of the marriage, GAYLE FRINK and JOY FRINK, with Blue Cross and Blue Shield or its equivalent, and that life insurance shall be maintained by the plaintiff with the two minor children of the marriage named as beneficiaries.

It is FURTHER ORDERED that the plaintiff pay to the defendant through the Camden County Probation Department the sum of $228.00 every two weeks, from and after the date of this order, as and for the support of the two minor children of the marriage; allocated $128.00 every two weeks for GAYLE FRINK and $100.00 every two weeks for JOY FRINK.

Said support to GAYLE FRINK is contingent upon her full time attendance at college and to terminate upon completion of a four year college education.

And it is FURTHER ORDERED that

counsel fees shall be awarded to SAUL TEITELMAN, Esquire, attorney for the defendant, in the sum of $600.00, which is to be paid by the plaintiff, JAMES BOYET FRINK.

And it is FURTHER ORDERED that the counterclaim of the defendant for divorce is hereby dismissed.

/s/ MARY ELLEN TALBOTT, J.C.C., T/A

Dated: 26 November 1975

APPENDIX B

SUPERIOR COURT OF NEW JERSEY,
CHANCERY DIVISION, CAMDEN COUNTY

JAMES BOYET FRINK,	:Docket No. M-7496-73
PLAINTIFF.	:ORDER CONFIRMING SUPPORT
v.	:ORDER, EQUITABLE
CATHERINE E. FRINK,	:DISTRIBUTION OF REALTY
DEFENDANT.	:AND ALLOWANCE OF COUNSEL FEES

This matter having come on for hearing on August 9, 1976, on plaintiff's application for supplemental relief; and the plaintiff appearing pro se, and the defendant appearing with her counsel, Saul Teitelman, Esquire; and the Court having heard the testimony of the parties with regard to their respective incomes and the requirements of support for the two minor children of the marriage and especially with the requirements of the child, Gayle Frink while in attendance at College; and the Court having further heard the arguments of the plaintiff and counsel for defendant; and for good cause shown.

IT IS on this 17th day of August 1976, ORDERED that the plaintiff continue to pay to the defendant through the Camden County Probation Department the sum of $228.00 every two weeks as and for the support of the two minor children of the marriage, Gayle Frink and Joy Frink, allocated $128.00 every two weeks for Gayle Frink and $100.00 every two weeks for Joy Frink. Said support for Gayle Frink is contingent upon her full time attendance at college and to terminate upon completion of a four year College education; and

IT IS further ORDERED that the plaintiff, James Boyet Frink, shall have the right to claim said infant children as his dependents in the filing of his United States Income Tax Return; and

It is FURTHER ORDERED that the plaintiff will continue to cover the two minor children of the marriage, GAYLE FRINK and JOY FRINK, with Blue Cross and Blue Shield or its equivalent, and that life insurance shall be maintained by the plaintiff with the two minor children of the marriage named as

beneficiaries until such children are no longer the financial dependents of the plaintiff; and

It is FURTHER ORDERED that the real property owned by the parties known as 1718 Stenton Avenue, Philadelphia, Pennsylvania, shall be transferred to the defendant, CATHERINE E. FRINK, and the property owned by the parties known as 2313 North Broad Street, Philadelphia, Pennsylvania, shall be transferred to the plaintiff, JAMES BOYET FRINK, and the plaintiff and defendant shall execute the necessary deeds of conveyance forthwith to accomplish such transfers; and

It is further ORDERED that the counsel fee of $600.00 heretofore allowed to Saul Teitelman, Esquire, attorney for the defendant, is to be paid by the plaintiff, James Boyet Frink, be and the same is hereby confirmed.

/s/ Mary Ellen Talbott
J. C. C. T/A

Dated: 17 August 1975

APPENDIX C

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-246-76

JAMES BOYET FRINK,

Plaintiff-Appellant,

v.

CATHERINE E. FRINK,

Defendant-Respondent

Submitted May 17, 1977 - Decided May 31, 1977

Before Judges Halpern, Allcorn and Botter.

On appeal from Superior Court of New Jersey, Chancery Division, Camden County.

Mr. James Boyet Frink, pro se.

Mr. Saul Teitelman, attorney for respondent.

PER CURIAM

We are satisfied from our review of the record that there was sufficient credible evidence therein to warrant the findings and conclusions of the trial judge (a) in increasing the original order of support for the two children, and (b) in allowing a

counsel fee of $600 to respondent payable by appellant. R. 2:11-3(e)(1)(a) See Khalaf v. Khalaf, 58 N.J. 63, 71-72 (1971); Williams v. Williams, 59 N.J. 229 (1971); R. 4:42-9(a)(1).

Affirmed.

A TRUE COPY

/s/ Elizabeth McLaughlin, clerk

APPENDIX D

SUPREME COURT OF NEW JERSEY
C-3 SEPTEMBER TERM 1977

JAMES BOYET FRINK, : Docket No. 13,871

Plaintiff-Petitioner,:

vs. :ON PETITION FOR CERTIFICATION

CATHERINE E. FRINK, :

Defendant-Respondent,:

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon ORDERED that the petition for certification is denied with costs.

WITNESS, the Honorable Richard J. Hughes, Chief Justice, at Trenton, This 12th day of September, 1977

Clerk

APPENDIX E

SUPREME COURT OF NEW JERSEY
M-242 SEPTEMBER TERM 1977

JAMES BOYET FRINK, : Docket No. 13,821

Plaintiff-Movant, :

vs. : ORDER

CATHERINE E. FRINK, :

Defendant-Respondent:

This matter having been duly presented to the Court, it is ORDERED that the motion for reconsideration is denied.

WITNESS, the Honorable Richard J. Hughes, Chief Justice, at Trenton, this 22nd day of November, 1977.

Acting Clerk

APPENDIX F

GOVERNOR'S OFFICE

Mr. James Boyet Frink
2011 Ferry Avenue
Apartment P-4
Camden, New Jersey 08104

ANSWER TO
AN APPEAL

Dear Mr. Frink:

I am returning the documents you forwarded to the Governor.

The Governor has no constitutional authority to review a final judgment of the Supreme Court of New Jersey. Your only recourse in this situation would be to seek legislative revision of statutes.

Very truly yours,

/S/TEEL OLIVER RHETT, ESQ.
Assistant Counsel to the Governor

Dated: 19 December 1977

APPENDIX G

STATE OF NEW JERSEY

GOVERNOR'S OFFICE

ORDER FOR

COMMUTATION OF SENTENCE

WHEREAS, Anne G. Hannah was convicted of contempt in the Chancery Division of the Superior Court in Monmouth County and was sentenced as modified by Order of the Appellate Division decided November 9, 1977, in In re Frances Adler, et al. (A-474-77, A-854-77, A-855-77) to serve seven (7) days confinement and to pay a fine of $50; and

WHEREAS, the said Anne G. Hannah has applied to the Governor for commutation of sentence;

NOW, THEREFORE, I, BRENDAN BYRNE, Governor of the State of New Jersey, by virtue of the authority conferred upon me by the Constitution of New Jersey and the statutes of the State in such case made and provided, do hereby grant to said Anne G. Hannah commutation of the aforesaid sentence to time of

incarceration already served and to the amount of the fine imposed, contingent upon compliance with conditions set forth in the agreement in acceptance of this commutation.

This Order is subject to revocation at any time, at the discretion of the Governor, without notice, for failure to comply without good cause with the agreement in acceptance of commutation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed at Trenton, this 12th day of November in the year of Our Lord one thousand nine Hundred and seventy-seven.

/s/Brendan Byrne
GOVERNOR

By the Governor

_____

Secretary of State

APPENDIX H

PLAINTIFF'S LETTER

From: James Boyet Frink, Pro Se
To: Saul Teitelman, Esquire
521 Cooper Street
Camden, N.J. 08102

Subj: Frink versus Frink, Appellate Division, Docket Number A-246-76, Civil Action; forwarding instruments for

Ref: (a) Saul Teitelman, Esquire, ltr St:las, to J. B. Frink, of 9 December 1976
(b) Philadelphia Naval Shipyard ltr Code 630.12 (GAD) of 27 December 1976
(c) Defendant's (Catherine E. Frink) Notice to Produce Records of 26 July 1976
(d) J. B. Frink ltr, to The Honorable Mary Ellen Talbott, Judge, T/A, of 14 August 1976
(e) Subpoena Duces Tecum, The State of N.J., to Catherine E. Frink (Defendant) of 14 July 1976

Encl: (1) J. B. Frink ltr, to Elizabeth McLaughlin, Esquire, Clerk of Superior Court of N.J., Appellate Division, of 22 October 1976
(2) J. B. Frink ltr, to The Honorable Mary Ellen Talbott, Judge, T/A, of 30 October 1976
(3) J. B. Frink ltr, to Elizabeth McLaughlin, Esquire, Clerk of Superior Court of N.J., Appellate Division, of 18 December 1976

1. Reference (a) requested by wage and tax statement/form W-2 for the following years:

a. 1973

b. 1974

C. 1975.

2. I discovered about 3 December 1976 that part of the aforesaid information is missplaced. Therefore, in order to fulfill your request, I requested my wage and tax statement/form W-2 from my employer for the following years:

a. 1971

b. 1972

c. 1973

d. 1974

e. 1975

My employer (Philadelphia Naval Shipyard) furnished this information under reference (b); and I personally delivered to you twenty (20) copies of it on 31 December 1976.

3. In my opinion the whole proceeding in the Court Below has been one-sided for the following reasons:

a. Demands were made by the defendant of the plaintiff that he answer under oath or certification interrogatories:

(1) The plaintiff complied

b. Demands were made by the defendant of the plaintiff that he produce at the hearing of 9 August 1976 certain records per reference (c):

(1) The plaintiff compiled where possible.

c. You requested certain information per reference (a):

(1) The plaintiff submitted this information.

d. I (the plaintiff) requested certain information of the defendant and my daughter (Gayle B. Frink) under reference (d):

(1) The expenses for my daughter were furnished to me. However the form and contents are not acceptable.

(2) The information on the defendant was not submitted.

e. I (the plaintiff/The State of New Jersey) requested under reference (e) that the defendant bring and produce at the hearing of 9 August 1976 in the Court Below certain documents:

(1) These records were not made available to the plaintiff at the time and place aforesaid.

f. I requested from you about 6 April the defendant's 1975 Individual Income Tax Return, but to no avail.

4. Enclosures (1), (2), and (3) are forwarded for your files.

Sincerely yours,

/s/James Boyet Prink, Pro Se

Copy to:
Administrative Office of the Courts (w/o encl)
Clerk of the Appellate Division (w/o encl)
The Hon. Mary Ellen Talbott, Judge, T/A (w/o encl)

Dated: 4 January 1977

IDENTIFICATION NO. 48095-318

NAME (Print or type—Last, First, Middle Initial) FRINK J.B.

ORGANIZATIONAL UNIT DEAT (Lewes) 4/1823

TYPE OF LEAVE ☐ ANNUAL—"I understand that any annual leave authorized in excess of the amount available to me during the leave year will be charged to LWOP." ☑ SICK—Complete other side of this form. ☐ WITHOUT PAY ☐ COMPENSATORY ☐ OTHER (Specify)

FROM (Mo., Day, Hr.)	TO (Mo., Day, Hr.)	NO. OF HOURS
2/13 0800 a.m.	2/22 1630 p.m.	56

SIGNATURE OF EMPLOYEE

DATE 2/23/1978

REMARKS

INSTRUCTIONS: Complete above part of form. If applying for sick leave, check appropriate box on back (top) of form. If you were under care of a doctor, be should complete "CERTIFICATE OF PHYSICIAN OR PRACTITIONER" also on back.

OFFICIAL ACTION ON APPLICATION

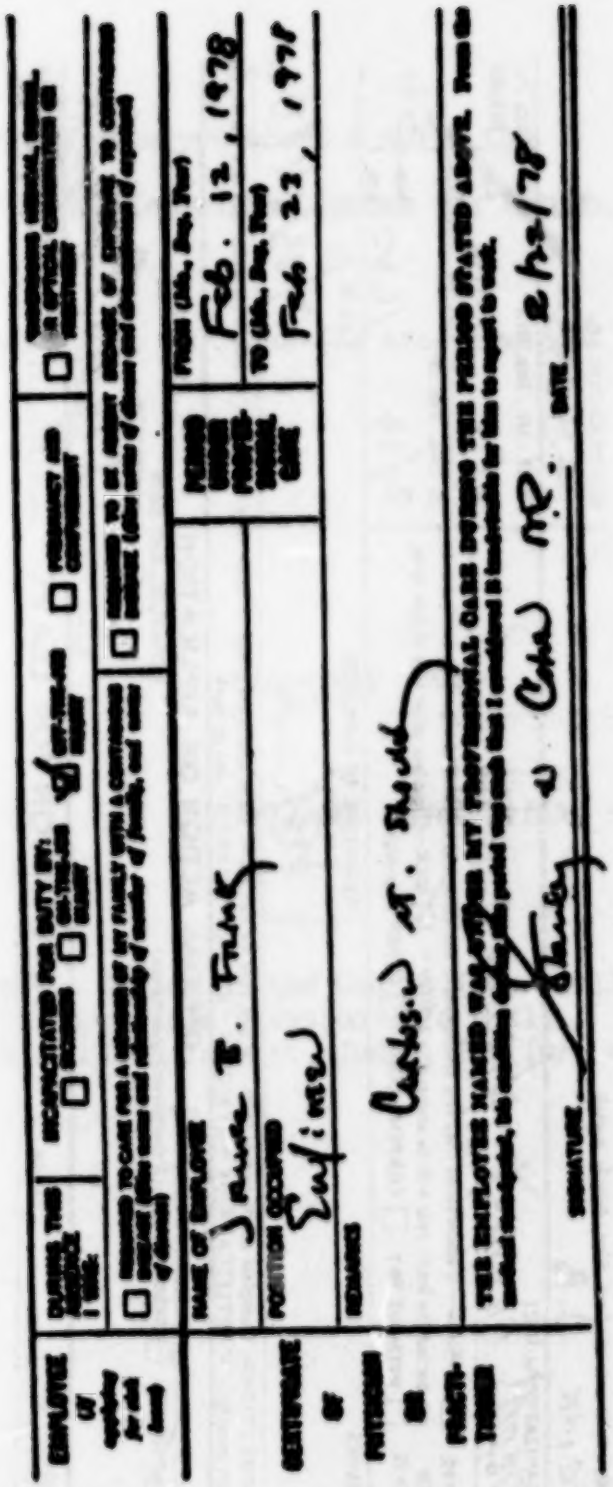
☑ APPROVED ☐ DISAPPROVED (If disapproved, give reason)

SIGNATURE AND DATE 2/23/78

STANDARD FORM 71 Revised November 1966 71-108

U.S. CIVIL SERVICE COMMISSION FPM SUPP. 990-1

APPLICATION FOR LEAVE



APPENDIX J

AFFIDAVIT IN SUPPORT OF APPLICATION FOR COUNSEL FEES

STATE OF NEW JERSEY :

ss

COUNTY OF CAMDEN :

SAUL TEITELMAN, of full age, being duly sworn according to law upon his oath, deposes and says:

1. I am the attorney for the defendant-counterclaimant in the above captioned matter.

2. My services rendered to said defendant-counterclaimant are as follows:

I consulted with the defendant relative to the service upon her of the plaintiff's summons and complaint and interviewed her regarding the details of the marriage, the desertion and/or separation, the prior action for support in the Courts of Pennsylvania, and other matters relative and pertaining to the present action.

Thereafter I prepared, filed and served an answer and counterclaim and propounded

interrogatories to the plaintiff.

While the matter has been pending I have had numerous telephone conferences with Edward Kent, Esquire and James. T. Rosenberg, Esquire, attorneys for the plaintiff. These conferences were directed toward attempting to arrive at an amicable solution for the support and maintenance of the defendant and the two children of the marriage.

During the course of the support negotiations it was necessary for me to have office conferences with the defendant as well as numerous telephone conferences. I have had four office conferences with the defendant, each of them lasting at least one hour.

I have prepared a trial memorandum and will be required to attend the trial of the cause.

On March 18, 1975 I attended a settlement conference in this matter which consumed one hours time.

I attended the divorce hearing before this Court and the hearing involving the support of the infant children of the marriage which consumed one afternoon of time.

I have spent approximately fifteen hours of my time in this matter. My usual charge for services is $65.00 per hour.

3. I have disbursed the sum of $30.00 for filing fee to file the answer and counterclaim with the Clerk of the Superior Court.

4. I have received no compensation to date from the defendant for my services or for the Court cost.

5. I respectfully request an allowance of $1,000.00 to cover my counsel fee and cost.

/s/Saul Teitelman
Saul Teitelman

Sworn to 13 November, 1975.